

EXHIBIT 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMIGRANT BANK and PACIFIC
MERCANTILE BANK,

Plaintiffs,

vs.

SUNTRUST BANK; TRUIST BANK;
and DOES 1 through 10,
inclusive,

Defendants.

)

)

)

)

)

) Case No.

) 1:20-cv-02391-PGG-OTW

)

)

)

)

)

)

)

DEPOSITION OF REX BOWRING
Tuesday, December 5, 2023

Reported by:

KATHLEEN E. BARNEY

CSR No. 5698

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMIGRANT BANK and PACIFIC
MERCANTILE BANK,

Plaintiffs,

vs.

SUNTRUST BANK; TRUIST BANK;
and DOES 1 through 10,
inclusive,

Defendants.

)

)

)

)

)

) Case No.

) 1:20-cv-02391-PGG-OTW

)

)

)

)

)

)

)

Deposition of REX BOWRING, taken on
behalf of Plaintiffs, beginning at 9:03 a.m. and
ending at 7:01 p.m. on Tuesday, December 5, 2023,
before KATHLEEN E. BARNEY, Certified Shorthand
Reporter No. 5698.

1 APPEARANCES :

2

3 For Plaintiffs :

4

5 QUINN EMANUEL URQUHART & SULLIVAN, LLP

6 BY: GARY GANS

7 KAYLA ROONEY

8 Attorneys at Law

9 865 South Figueroa Street

10 10th Floor

11 Los Angeles, California 90017

12 garygans@quinnemanuel.com

13

14

15 For Defendants :

16

17 KING & SPALDING

18 BY: DAVID TETRICK (Via Zoom)

19 Attorney at Law

20 1180 Peachtree Street, NE

21 Suite 1600

22 Atlanta, Georgia 30309

23 dtetrick@kslaw.com

24

25

1 APPEARANCES (continued) :

2

3 Videographer :

4

5 STEVEN TOGAMI

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 A Yes.

2 Q The first sentence, it says:

3 "Bowring advised that it is his
4 understanding that Virgo set up
5 Calrissian as a stand-alone entity,
6 the purpose of which was to own ME."
7 Do you see that?

8 A Yes.

9 Q And do you understand ME is Millennium
10 Entertainment?

11 A Yes.

12 Q Okay. And that is true, that it was your
13 understanding that Virgo set up Calrissian as a
14 stand-alone entity, the purpose of which was to own
15 ME?

16 A That was my understanding.

17 Q Okay. Then it says:

18 "He advised that the same 12 to
19 15 people operate both Calrissian and
20 Virgo. He states that he never knew
21 if he was dealing with Calrissian or
22 Virgo, and he was not aware of any
23 difference between the two entities."

24 That was also your understanding; is that
25 right?

1 A Yes.

2 Q And so it was your experience that the same
3 people operated Virgo and -- well, I don't know if
4 they operated -- let me start again.

5 Do you know if anybody actually was operating
6 Calrissian?

7 A I did not, no.

8 Q So you just dealt with the same group of --
9 dealt with the group of people from Virgo?

10 A Yes.

11 Q Okay. And I think we've gone through this,
12 but you didn't have an understanding that anybody
13 worked at Calrissian independent of Virgo?

14 A Yes.

15 Q Okay. And did you ever know whether
16 Calrissian had any independent offices?

17 A I was not aware of any independent offices.

18 Q And did you ever see any Calrissian email
19 address?

20 A Not that I recall.

21 Q Skipping to the last paragraph, it says:

22 "The initial funds to purchase ME
23 came from other partners, but flowed
24 through Calrissian."

25 Do you see that?

1 A Yes.

2 Q And you talked earlier about who put up the
3 money to purchase Millennium.

4 Do you remember that?

5 A My understanding, yes.

6 Q So how do you know that the initial funds to
7 purchase Millennium came from other partners, but
8 flowed through Calrissian?

9 A Because I was told by Virgo partners that
10 they had these two other investment partnerships and
11 these people invested in these partnerships,
12 contributed the funds for this acquisition at Virgo.

13 Q Which Virgo partners told you that?

14 A I believe -- I believe those questions were
15 answered through -- it would have been either Mark
16 Perez or Brian Wade.

17 Q Okay. Skipping to the next page, there's a
18 heading of "Borrowing Base Certificates."

19 Do you see that?

20 A Yes.

21 Q The first paragraph under that heading says:

22 "Bowring advised that following
23 the acquisition of ME/Alchemy, they
24 were required to submit borrowing
25 based certificates (BBCs) to SunTrust

1 Bank as administrative agent for the
2 other lenders. He advised that the
3 BBCs were submitted to SunTrust on a
4 monthly basis and a compliance
5 certificate was submitted on a
6 quarterly basis."
7 That's true, as you've testified earlier,
8 right?

9 A Yes.

10 Q Skipping a paragraph, it says:

11 "Bowring would submit draft BBCs
12 to Matt Roland at SunTrust, and they
13 would have" -- "and they would then
14 have discussions regarding them. Once
15 they were made final, the BBCs would
16 typically be signed by Lee and
17 occasionally Avagliano. After Lee and
18 Avagliano were no longer with Alchemy,
19 for several months the BBCs were
20 signed by Scott Guthrie."

21 So all of that is true other than the name is
22 Matt Rowand, not Matt Roland. Is that your
23 understanding?

24 MR. TETRICK: Object to the form of the
25 question. Mischaracterizes previous testimony.

1 Alchemy was known as as of 2014, right?

2 A Yes.

3 Q So then let's turn to -- I want to get you
4 the correct page number. Give me just one second.

5 Okay. I'd like you to turn to the back of
6 the document. It's about 45 pages in, and the Bates
7 label that you're looking for is 215461.

8 A I have an EB22 -- I mean EB00215461?

9 Q Right. Let me have you turn -- I'm sorry,
10 not turn, but go up a few pages before then to
11 215456.

12 A Yes.

13 Q And do you see the signature blocks on that
14 page?

15 A Yes.

16 Q And do you see that the guarantors are
17 identified as Calrissian LP and Millennium Media
18 Services, Inc.?

19 A I see guarantors, yes, as those two
20 companies.

21 Q And who signed on behalf of Calrissian LP?

22 A From what I look at, it appears to be Jesse
23 Watson, titled "Manager."

24 Q And the entity that is above his signature is
25 Virgo Service Company, LLC; is that right?

1 A Yes.

2 Q Are you familiar with the entity named Virgo
3 Service Company, LLC?

4 A No.

5 Q And -- but you are familiar with Calrissian
6 LP, right?

7 A I'm aware of an entity called Calrissian, but
8 I don't know the exact legal distinctions. Because
9 when I dealt with it on email, it was Calrissian
10 Virgo. But for me and my staff, we were treating
11 Virgo Calrissian as one and the same as far as my
12 perspective. I didn't understand or didn't
13 understand completely all of the nuances of the
14 companies.

15 Q But you were never an employee of Calrissian,
16 right?

17 A Never.

18 Q And you were never an officer of Calrissian?

19 A Yes, never. Correct.

20 Q During your time as an employee of Our
21 Alchemy, did you have access to Calrissian's
22 financial statements?

23 A No.

24 Q I wanted to ask you about some of your
25 testimony earlier today, and specifically what I

1 wanted to ask about was testimony that was pretty
2 early on in the day.

3 You testified to the effect that Virgo was
4 the borrower, but that the loan was constructed so
5 that Alchemy would be the legally responsible
6 entity.

7 Do you remember giving that answer?

8 A That was my understanding at the time. And I
9 believe I used the term that Virgo negotiated the
10 deal, and it was basically paraphrasing Alchemy -- I
11 mean Virgo, and Virgo people were responsible for
12 negotiating the deal. And then they pushed the loan
13 down on Millennium Entertainment. It's a vernacular
14 term I used that, okay, it's our Millennium
15 Entertainment debt.

16 But that was my understanding. Whether they
17 were negotiating it on their behalf or the behalf of
18 Millennium Entertainment, but they were negotiating
19 the deal and then it got pushed down as Millennium
20 Entertainment's loan.

21 Q And when you're referring to "the deal" in
22 your answer there, are you referring to the
23 arrangement that eventually became the original
24 credit agreement that you have in front of you as
25 Defendants' Exhibit 93?

1 A Yes.

2 Q And you understand that the original credit
3 agreement governed the relationship between the
4 borrower and the lenders after it was signed, right?

5 A Yes.

6 Q Until it was amended and restated in 2015,
7 right?

8 A Yes.

9 Q After which the amended credit agreement
10 controlled the relationship between the lenders and
11 the borrowers, right?

12 A Yes.

13 Q So what's the basis of your understanding
14 that Virgo was the borrower, but I think your term
15 was "pushed it down on Alchemy"? What is the basis
16 of your understanding there?

17 A My understanding is they were negotiating the
18 deal, the loan and all of the terms of the deal and
19 negotiating it and basically putting the whole deal
20 together.

21 Because all the time I was -- emails and
22 whatnot, receiving emails from Mark Perez, we need
23 this, we need that information or what. And they
24 were -- my understanding, they were -- initially
25 they were negotiating the loan agreement and

1 everything from based on all of the information and
2 emails and requests for information, it was all
3 going back to -- via Mark Perez and/or, you know,
4 the lawyers that were working on the deal. But what
5 I understood, that it was going through Mark Perez
6 and everything, direction and information that we
7 were providing.

8 Q So is this an understanding that you reached
9 on your own, or did you get this information from
10 somebody else?

11 A Information talking to other people, I
12 believe John Avagliano, and discussing it and
13 saying, you know, they're handling it, they're
14 taking the lead on it, negotiating for this. And so
15 let's be a part and provide the information that
16 they need so the deal can be closed for Millennium
17 Entertainment.

18 Q And were these negotiations that you're
19 describing the negotiations with the lenders to the
20 original credit agreement?

21 A That was my understanding.

22 Q And do you know why Virgo did not want to be
23 the borrower under the amended credit agreement?

24 A No, I do not.

25 Q Do you -- do you understand how it is that

1 Calrissian became the guarantor under the original
2 credit agreement?

3 A No, I do not.

4 Q I should have asked you this earlier, but
5 during the time that you were employed as controller
6 at Our Alchemy, did you have access to Calrissian's
7 bank accounts?

8 A No.

9 Q Did you have any signature authority over
10 Calrissian's bank accounts?

11 A No.

12 Q Let me ask you to take a look at the document
13 that has been marked as Defendants' Exhibit 95.
14 That's the amended complaint.

15 A Okay. Yes, I have it.

16 Q Have you seen this document before today?

17 A No, I have not.

18 Q You did not review this in preparation for
19 your deposition?

20 A No, I did not.

21 Q Would you please turn to page 10.

22 A Would that be listed as page 10 of this
23 document at the bottom?

24 Q I hope so, yes.

25 A Yes, I'm there.